

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JASON MAYS,

Plaintiff,

07-CV-10451 (JFK)(GWG)

-against-

ANSWER

THE LONG ISLAND RAILROAD COMPANY,

Defendant.

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S I R S :

Defendant, The Long Island Rail Road Company ("LIRR"), by its attorney, MARK D. HOFFER, ESQ., answering the complaint of plaintiff, alleges upon information and belief:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "1", and "6" and refers all questions of law to the Court for its determination.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "5" but admits that on August 4, 2005 plaintiff was employed by the defendant.

3. Denies the allegations contained in paragraphs "7", "8", "9" and "10" of the plaintiff's complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

4. Whatever injuries and/or damages plaintiff may have sustained at the time and place alleged in the Complaint were caused in whole or in part or were contributed to by the

culpable conduct and negligence or fault or want of care on the part of the plaintiff, including contributory negligence and without any negligence or fault or want of care on the part of the defendant, LIRR.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

5. Plaintiff has failed to mitigate his damages..

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

6. Plaintiff has failed to state a cause of action upon which relief may be granted.

WHEREFORE, defendant demands judgment of this court dismissing the complaint in its entirety, plus the costs and disbursements of the action.

Dated: Jamaica, New York
January 4, 2008

MARK D. HOFFER, ESQ.
Vice President/General Counsel & Secretary
Attorney for Defendant

By: 

Sean P. Constable (SC3472)

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